



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

ADMINISTRATIVE ORDER NO. 2011-04

WHEREAS, Executive Order No. 60 directs the New Jersey Department of Environmental Protection and the New Jersey Department of Transportation to obtain emission reductions from non-road diesel powered equipment used in publicly funded construction contracts; and

WHEREAS, particles emitted by diesel-powered vehicles and equipment are very small and consist of a complex mixture of hundreds of compounds, including polycyclic aromatic hydrocarbons, which are mutagenic and carcinogenic; and

WHEREAS, the United States Environmental Protection Agency, the International Agency for Research on Cancer, the World Health Organization, and the United States Department of Health and Human Services' National Toxicology Program have classified diesel exhaust as likely to be carcinogenic to humans; and

WHEREAS, numerous scientific studies have found links between exposure to fine particles and cardiovascular, as well as respiratory, effects including cancer, premature death, and an increased incidence of asthma, allergies, and other breathing disorders; and

WHEREAS, diesel exhaust contributes significantly to the fine particle air pollution problem in New Jersey; and

WHEREAS, diesel exhaust poses a health risk to the people of this State and especially to vulnerable populations in urban areas where there are concentrations of low income citizens and people of color; and

WHEREAS, the New Jersey Department of Environmental Protection is charged with establishing and implementing policies and programs to protect public health, the environment, and the State's natural resources,

NOW THEREFORE, I, Bob Martin, Commissioner of the New Jersey Department of Environmental Protection, do hereby Order and Direct:

1. The Division of Air Quality within the New Jersey Department of Environmental Protection shall develop an Implementation Plan within 30 days after issuance of this Administrative Order, for emission reductions from non-road diesel powered equipment used in publicly funded construction contracts in urban areas during the next three years ("the Projects"). The Projects shall be chosen jointly by the New Jersey Department of

Environmental Protection and the New Jersey Department of Transportation within 30 days after issuance of the Implementation Plan in order to install retrofit technology on 175 pieces of non-road diesel powered equipment used on those Projects. The Implementation Plan shall:

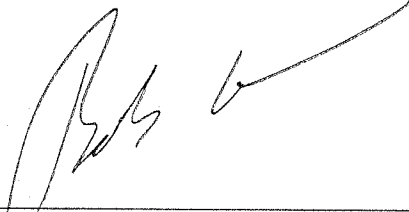
- a. Define the types and model years of non-road diesel powered equipment to achieve reductions in diesel emissions pursuant to this Order;
 - b. Establish the reduction levels for each affected equipment type;
 - c. Specify the time frame in which each piece of equipment used in a Project shall be retrofitted;
 - d. List the documentation required for the equipment owner to demonstrate compliance;
 - e. Give due consideration to diesel retrofit efforts undertaken by an owner or operator of diesel powered equipment prior to the issuance of the Implementation Plan; and
 - f. Provide that retrofits of all non-road diesel equipment greater than 100 horsepower used on any of the Projects for more than ten days must have engines that meet the United States Environmental Protection Agency's (USEPA) Tier 4 non-road emission standards or control technology verified by the USEPA, the California Air Resources Board (CARB), or the Switzerland BUWAL program (VERT filter list) to reduce particulate matter emissions by a minimum of 85% from their previous levels.
2. The Department shall identify and provide funding of not less than \$2.5 million for the purpose of installing the retrofits under the Implementation Plan.
 3. At the conclusion of the three year Implementation Plan, the Division of Air Quality within the New Jersey Department of Environmental Protection shall convene a stakeholder process to advise the Department, based on experience, whether it is appropriate to expand the diesel emission reduction retrofit requirements to other projects and/or whether modifications are needed before expanding. The analysis shall be based on input from environmental advocacy groups, relevant trade associations, and affected construction contractors and shall also take into account the experience of other jurisdictions that have implemented similar programs. As part of the analysis, the emission reductions achieved during the three years of projects will be determined and air quality modeling of one or more construction projects will be done to predict air quality and health benefits of a diesel emission reduction program for non-road construction equipment. Any relevant air monitoring data, including trend data for particulates, will also be considered in this evaluation. The Division shall complete its stakeholder process within 90 days. The Division shall consult the Department of Transportation before the Department makes a recommendation to the Governor.
 4. After consultation with the New Jersey Department of Transportation and after the stakeholder process outlined in paragraph 3 above, the Department shall recommend to the Governor that he continue and expand the diesel air pollution retrofit requirements to the entire State, with appropriate modifications, unless the Commissioner finds that the

diesel retrofit program on construction equipment has not been successfully implemented. Expansion and modification of the diesel emission retrofit program may include application of the diesel retrofit requirement to all State construction contracts with total costs greater than \$5 million for all project phases awarded by all state agencies and authorities, a reporting requirement to ensure compliance, and other appropriate provisions to ensure program effectiveness.

5. The Division of Air Quality within the New Jersey Department of Environmental Protection shall work with representatives of the construction industry on an industry-led initiative to review the state-wide emissions inventory for non-road construction equipment.

This Order shall take effective immediately

4/20/2011
Date:



Bob Martin
Commissioner